

chapter, an LOA may be modified without prior notice or opportunity for public comment. Notification would be published in the FEDERAL REGISTER within 30 days of the action.

### Subparts C–E [Reserved]

## Subpart F—Taking of Marine Mammals Incidental To Target and Missile Launch Activities From San Nicolas Island, CA

SOURCE: 79 FR 32684, June 3, 2014, unless otherwise noted.

EFFECTIVE DATE NOTE: At 79 FR 32684, June 6, 2014, subpart F was added, effective June 3, 2014, through June 3, 2019.

### § 217.50 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the incidental taking of marine mammals specified in paragraph (b) of this section by the Naval Air Warfare Center Weapons Division, U.S. Navy, and those persons it authorizes to engage in target missile launch activities and associated aircraft and helicopter operations at the Naval Air Warfare Center Weapons Division facilities on San Nicolas Island, California.

(b) The incidental take of marine mammals under the activity identified in paragraph (a) of this section is limited to the following species: Northern elephant seals (*Mirounga angustirostris*), harbor seals (*Phoca vitulina*), and California sea lions (*Zalophus californianus*).

(c) This Authorization is valid only for activities associated with the launching of a total of 40 vehicles (e.g., RAM, Coyote, MSST, Terrier, SM-3, or similar) from Alpha Launch Complex and smaller missiles and targets from Building 807 on San Nicolas Island, California.

### § 217.51 Effective dates.

Regulations in this subpart are effective from June 3, 2014, through June 3, 2019.

### § 217.52 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to § 216.106 and 217.57 of

this chapter, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals by harassment, within the area described in § 217.50, provided the activity is in compliance with all terms, conditions, and requirements of the regulations and the appropriate Letter of Authorization.

(b) The activities identified in § 217.50 must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals is authorized for the species listed in § 217.50(b) and is limited to Level B Harassment.

### § 217.53 Prohibitions.

Notwithstanding takings contemplated in § 217.50 and authorized by a Letter of Authorization issued under §§ 216.106 and 217.57 of this chapter, no person in connection with the activities described in § 217.50 may:

(a) Take any marine mammal not specified in § 217.50(b);

(b) Take any marine mammal specified in § 217.50(b) other than by incidental, unintentional harassment;

(c) Take a marine mammal specified in § 217.50(b) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under §§ 216.106 and 217.57 of this chapter.

### § 217.54 Mitigation.

(a) When conducting operations identified in § 217.50(c), the mitigation measures contained in the Letter of Authorization issued under §§ 216.106 and 217.57 must be implemented. These mitigation measures include, but are not limited to:

(1) The holder of the Letter of Authorization must not enter pinniped haul-out sites below the missile's predicted flight path for 2 hours prior to planned missile launches.

(2) The holder of the Letter of Authorization must avoid, whenever possible, launch activities during harbor seal pupping season (February to